

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA

MICHAEL SHELIGA,	:	
Plaintiff	:	
v.	:	Case No. 3:23-cv-139-KRG-KAP
WINDBER BOROUGH, <i>et al.</i> ,	:	
Defendants	:	

Memorandum Order

At ECF no. 44 I asked the parties to explain the discrepancy between the complaint on the docket and the complaint as the parties saw it and, with my thanks for their quick work, they did that at ECF no. 54. It appears that the original complaint was intended to be a 14-page document. I think that because the fillable pdf form at ECF no. 1 (containing pages 1-6 of the original) was not flattened, what I see in the fillable form differs from what the parties see, and pages 7-14 were not part of a fillable pdf form and were not docketed at all. I will use the 14-page version of the complaint attached as Exhibit 1 to ECF no. 54, and have the Clerk re-docket it for ease of viewing, with the same filing date of June 23, 2023.

With that cleared up, I will address the motion to dismiss at ECF no. 10 as originally briefed before the TRO proceedings and appeal therefrom. I will consider the parties' submissions filed in response to my *Celotex* order if that is necessary, but even if I need to consider the documents at ECF no. 47 through ECF no. 53 it is not necessary to have additional motions pending: will simply make it clear in my report where I am recommending action under Rule 12 and where I am recommending action under Rule 56.

Therefore, the motions at ECF. No 48 and ECF no. 53 are superfluous and denied without prejudice to considering the issues raised therein when I file a report disposing of the motion at ECF no. 10. That makes the motion at ECF no. 55 unnecessary, and it is denied as moot. I will reconsider *sua sponte* plaintiff's motion at ECF no. 42 for discovery if it becomes relevant to considering the motion to dismiss as one for summary judgment.



DATE: February 7, 2025

Keith A. Pesto,
United States Magistrate Judge

Notice by ECF to parties or their counsel